

**BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Application)
of:)**

MOUSLY DIAKHATE,

Case No. 950-2017-001529

Applicant

DECISION AND ORDER

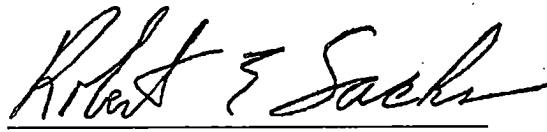
The attached Stipulation for a Probationary License is hereby adopted as the Decision and Order of the Physician Assistant Board, Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on September 28, 2017.

IT IS SO ORDERED September 20, 2017.

PHYSICIAN ASSISTANT BOARD

By:



Robert E. Sachs, P.A., Chair

BEFORE THE
PHYSICIAN ASSISTANT BOARD
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Application of:)	
)	
Mously Diakhate)	STIPULATION FOR A
)	PROBATIONARY LICENSE
For a Physician Assistant)	
License)	
_____)	

Mously Diakhate, applicant for a physician assistant license (hereafter Applicant), and Maureen L. Forsyth, Executive Officer, Physician Assistant Board (Board), hereby stipulate as follows:

FACTS

- 1) This Applicant is a Stanford-Foothill College graduate of the Primary Care Physician Assistant Program. She is not licensed to practice as a physician assistant in any state.
- 2) On April 12, 2017, the applicant submitted an application for physician assistant licensure to the Physician Assistant Board. Question 17 on the application asks: *"Have you ever withdrawn from, or been suspended, dismissed, or expelled from a physician assistant training program or have you ever taken a leave of absence from such a program?"* The application also includes the following notice, which states that, "falsification or misrepresentation of any item or response on this application or any attachment hereto is grounds for denying or revoking a license."
- 3) The Applicant checked the box marked "yes" in response to Question 17, indicating she had withdrawn from, or been suspended, dismissed, or expelled from a physician assistant training program or had taken a leave of absence from her program.
- 4) The Applicant signed the application for licensure submitted to the Board on April 8, 2017, certifying under penalty of perjury that she read the questions in the application and that all of the information, statements, attachments and representations she provided in her application are true and correct.

5) The Applicant took a leave of absence in 2014 to improve her study skills in lieu of academic probation, placed on disciplinary probation during the third (3rd) quarter and remediated, under investigation for academic dishonesty, and was denied participation in extracurricular activities during her probation.

6) Section 480(a) of the Business and Professions Code states that a board may deny a license regulated by this code on the grounds that the applicant has one of the following: (1) Been convicted of a crime; (2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another; or (3) Done any act that if done by a licensee of the business or profession in question would be grounds for suspension or revocation of license. The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made.

7) Section 3527(a) of the Business and Professions Code states that the committee may order the denial of an application for, or the issuance subject to terms and conditions of, or the suspension or revocation of, or the imposition of probationary conditions upon a physician assistant license after a hearing as required in Section 3528 for unprofessional conduct which includes, but is not limited to, a violation of this chapter, a violation of the Medical Practice Act, or a violation of the regulations adopted by the board or the Medical Board of California.

8) Pursuant to section 3527(a) of the Business and Professions Code, the Board may deny an application for licensure, or issue a license subject to terms and conditions, or suspend or revoke, or impose probationary conditions upon a physician assistant license, after a hearing, for unprofessional conduct. Unprofessional conduct includes, but is not limited to, a violation of the Physician Assistant Practice Act (commencing with Business and Professions Code section 3500), a violation of the Medical Practice Act (commencing with Business and Professions Code section 2000), or a violation of the regulations adopted by the Board or the Medical Board of California.

9) The Applicant agrees that grounds exist to deny the applicant's application for licensure pursuant to Business and Professions Code section 480 based on paragraphs 2, 3, 4, and 5 above.

10) The Applicant acknowledges that she has a right to request a hearing on the denial of her request for licensure. The Applicant voluntarily, knowingly, and intelligently waives and gives up this right by signing this Stipulation.

11) Pursuant to section 3519.5 of the Business and Professions Code, the Board may issue a probationary license on terms and conditions. This

Stipulation for a Probationary License (Stipulation) reflects board staff's recommendation to the Board regarding the issuance of a probationary license on terms and conditions to the Applicant in this matter, and that this Stipulation shall be subject to approval by the Board in order to be effective.

12) The Applicant understands and agrees that counsel for Complainant and board staff may communicate directly with the Board and board staff regarding this Stipulation without notice to or participation by the Applicant or her legal counsel. By signing the Stipulation, the Applicant understands and agrees that she may not withdraw her agreement or seek to rescind the Stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this Stipulation, the Stipulation for a Probationary License shall be of no force or effect (except for this paragraph) and shall be inadmissible in any legal action between the parties. Further, the Board shall not be disqualified from further action by having considered this matter.

13) The parties understand and agree that Portable Document Format (PDF) and facsimile copies of this Stipulation, including Portable Document Format (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

14) This Stipulation is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulation may not be altered, amended, modified, supplemented, or otherwise changed, except by a writing executed by an authorized representative of each of the parties.

15) In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue a probationary license to the Applicant on the terms and conditions set forth below.

TERMS AND CONDITIONS

1) The application of Mously Diakhate for an unrestricted license as a physician assistant is hereby denied. However, a probationary license shall be issued to Applicant subject to the following terms and conditions. Applicant's physician assistant license is placed on probation for a period of three (3) years beginning on the date Applicant is issued a probationary license. Upon successful completion of the probationary period and all terms and conditions, an unrestricted physician assistant license shall be issued.

2) Ethics Course

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a course in ethics. The course shall be limited to classroom, conference or seminar settings. Respondent shall successfully complete the course within the first year of probation.

Respondent shall pay the cost of the course.

Respondent shall submit a certification of successful completion to the Board or its designee within 15 days after completing the course.

3) Community Service

Within 60 days of the effective date of this decision, respondent shall submit to the Board or its designee for its prior approval a community service program in which respondent shall, within the first 2 years of probation, provide 40 hours of free service (medical or nonmedical) to a community or non-profit organization.

Prior to engaging in any community service, respondent shall provide a true copy of the Decision to the chief of staff, director, office manager, program manager, officer, or the chief executive officer at every community or non-profit organization where respondent provides community service. Respondent shall submit proof of compliance to the Board or its designee within 15 calendar days of completion of the community service. This condition shall also apply to any change(s) in community service.

4) Approval of Supervising Physician

Within 30 days of the effective date of this Stipulation, Applicant shall submit to the Board or its designee for its prior approval the name and license number of the supervising physician and a practice plan detailing the nature and frequency of supervision to be provided. Applicant shall not practice until the supervising physician and practice plan are approved by the Board or its designee.

Applicant shall have the supervising physician submit quarterly reports to the Board or its designee.

If the supervising physician resigns or is no longer available, Applicant shall, within 15 days, submit the name and license number of a new supervising physician for approval. Applicant shall not practice until a new supervising physician has been approved by the Board or its designee.

5) Notification of Employer and Supervising Physician

Applicant shall notify his/her current and any subsequent employer and supervising physician(s) of the discipline and provide a copy of this Stipulation to

each employer and supervising physician(s) during his/her period of probation, before accepting or continuing employment. Applicant shall ensure that each employer informs the Board or its designee, in writing within 30 days, verifying that the employer and supervising physician(s) have received a copy of this Stipulation.

This condition shall apply to any change(s) in place of employment.

The Applicant shall provide to the Board or its designee the names, physical addresses, mailing addresses, and telephone numbers of all employers, supervising physicians, and worksite monitor, and shall inform the Board or its designee in writing of the facility or facilities at which the person practices as a physician assistant.

6) Obey All Laws

Applicant shall obey all federal, state, and local laws, and all rules governing the practice of medicine as a physician assistant in California and remain in full compliance with any court ordered criminal probation, payments, and other orders.

7) Quarterly Reports

Applicant shall submit quarterly declarations under penalty of perjury on forms provided by the Board or its designee, stating whether there has been compliance with all the conditions of probation.

8) Other Probation Requirements

Applicant shall comply with the Board's probation unit. Applicant shall, at all times, keep the Board and probation unit informed of Applicant's business and residence addresses. Changes of such addresses shall be immediately communicated in writing to the Board and probation unit. Under no circumstances shall a post office box serve as an address of record, except as allowed by California Code of Regulations 1399.511.

Applicant shall appear in person for an initial probation interview with the Board or its designee within 90 days of the decision. Applicant shall attend the initial interview at a time and place determined by the Board or its designee.

Applicant shall, at all times, maintain a current and renewed physician assistant license.

Applicant shall also immediately inform probation unit, in writing, of any travel to any areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty (30) days.

9) Interview with Medical Consultant

Applicant shall appear in person for interviews with the Board's medical or expert physician assistant consultant upon request at various intervals and with reasonable notice.

10) Non-practice While on Probation

Applicant shall notify the Board or its designee in writing within 15 calendar days of any periods of non-practice lasting more than 30 calendar days. Non-practice is defined as any period of time exceeding 30 calendar days in which Applicant is not practicing as a physician assistant. Applicant shall not return to practice until the supervising physician is approved by the Board or designee.

If, during probation, Applicant moves out of the jurisdiction of California to reside or practice elsewhere, including federal facilities, Applicant is required to immediately notify the Board in writing of the date of departure, and the date of return, if any.

Practicing as a physician assistant in another state of the United States or federal jurisdiction while on active probation with the physician assistant licensing authority of that state or jurisdiction shall not be considered non-practice.

All time spent in a clinical training program that has been approved by the Board or its designee, shall not be considered non-practice. Non-practice due to a Board ordered suspension or in compliance with any other condition or probation, shall not be considered a period of non-practice.

Any period of non-practice, as defined in this condition, will not apply to the reduction of the probationary term. Periods of non-practice do not relieve Applicant of the responsibility to comply with the terms and conditions of probation.

It shall be considered a violation of probation if for a total of two years Applicant fails to practice as a physician assistant. Applicant shall not be considered in violation for non-practice as long as Applicant is residing and practicing as a physician assistant in another state of the United States and is on active probation with the physician assistant licensing authority of that state, in which case the two- year period shall begin on the date probation is completed or terminated in that state.

11) Unannounced Clinical Site Visit

The Board or its designee may make unannounced clinical site visits at any time to ensure that Applicant is complying with all terms and conditions of probation.

12) Unannounced Clinical Site Visit

The committee or its designee may make unannounced clinical site visits at any time to ensure that respondent is complying with all terms and conditions of probation.

13) Condition Fulfillment

A course, evaluation, or treatment completed after the acts that gave rise to Stipulation but prior to the effective date of the Stipulation may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of the condition.

14) Completion of Probation

Applicant shall comply with all financial obligations (e.g., cost recovery, probation costs) no later than 60 calendar days prior to the completion of probation. Upon successful completion of probation, an unrestricted license will be issued.

15) Violation of Probation

If Applicant violates probation in any respect, the Board after giving Applicant notice and the opportunity to be heard, may revoke probation. If an accusation or petition to revoke probation is filed against Applicant during probation, the Board shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

16) Probation Monitoring Costs

Applicant shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. The costs shall be made payable to the Physician Assistant Board and delivered to the Board no later than January 31 of each calendar year.

17) Voluntary License Surrender

Following the effective date of this probation, if Applicant ceases practicing due to retirement, health reasons, or is otherwise unable to satisfy the terms and conditions of probation, Applicant may request, in writing, the voluntary surrender of Applicant's license to the Board. Applicant's written request to surrender his or her license shall include the following: his or her name, license number, case

number, address of record, and an explanation of the reason(s) why Applicant seeks to surrender his or her license. The Board reserves the right to evaluate the Applicant's request and to exercise its discretion whether to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Applicant shall not be relieved of the requirements of his or her probation unless the Board or its designee notifies Applicant in writing that Applicant's request to surrender his or her license has been accepted. Upon formal acceptance of the surrender, Applicant shall, within 15 days, deliver Applicant's wallet and wall certificate to the Board or its designee and shall no longer practice as a physician assistant. Applicant will no longer be subject to the terms and conditions of probation and the surrender of Applicant's license shall be deemed a disciplinary action. If Applicant re-applies for a physician assistant license, the application shall be treated as a petition for reinstatement of a revoked license.

18) Modification or Early Termination of Probation

Applicant agrees to the term of probation length and agrees not to petition for or seek an early termination of the length of probation or modification of the terms of probation.

If adopted by the Board as noted in the Facts paragraph 12 above, applicant agrees to comply with the terms and conditions of the above Order.



Mously Diakhate, Applicant

8/15/2017
Date



Maureen L. Forsyth, Executive Officer
Physician Assistant Board

8-22-17
Date